

AN ACT

relating to ad valorem tax relief for an owner of certain property, including a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage, and to a restriction on the authority to bring an action to remove a house that is partially located on a public beach as a result of a meteorological event.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 61.018, Natural Resources Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) Except as provided by Subsection (a-1), any ~~Any~~ county attorney, district attorney, or criminal district attorney, or the attorney general at the request of the commissioner, shall file in a district court of Travis County, or in the county in which the property is located, a suit to obtain either a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove or prevent any improvement, maintenance, obstruction, barrier, or other encroachment on a public beach, or to prohibit any unlawful restraint on the public's right of access to and use of a public beach or other activity that violates this chapter.

(a-1) A county attorney, district attorney, or criminal district attorney or the attorney general may not file a suit under

1 Subsection (a) to obtain a temporary or permanent court order or
2 injunction, either prohibitory or mandatory, to remove a house from
3 a public beach if:

4 (1) the line of vegetation establishing the boundary
5 of the public beach moved as a result of a meteorological event that
6 occurred before January 1, 2009;

7 (2) the house was located landward of the natural line
8 of vegetation before the meteorological event;

9 (3) a portion of the house continues to be located
10 landward of the line of vegetation; and

11 (4) the house is located on a peninsula in a county
12 with a population of more than 250,000 and less than 251,000 that
13 borders the Gulf of Mexico.

14 (a-2) The owner of a house described by Subsection (a-1) may
15 repair or rebuild the house if the house was damaged or destroyed by
16 the meteorological event.

17 (a-3) Notwithstanding Subsection (a-1), a county attorney,
18 district attorney, or criminal district attorney or the attorney
19 general may file a suit under Subsection (a) to obtain a temporary
20 or permanent court order or injunction, either prohibitory or
21 mandatory, to remove a house described by Subsection (a-1) from a
22 public beach if the house was damaged or destroyed by the
23 meteorological event and the owner of the house fails to repair or
24 rebuild the house before September 1, 2013.

25 SECTION 2. Subchapter B, Chapter 11, Tax Code, is amended by
26 adding Section 11.135 to read as follows:

27 Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION

1 WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a)
2 If a qualified residential structure for which the owner receives
3 an exemption under Section 11.13 is rendered uninhabitable or
4 unusable by a casualty or by wind or water damage, the owner may
5 continue to receive the exemption for the structure and the land and
6 improvements used in the residential occupancy of the structure
7 while the owner constructs a replacement qualified residential
8 structure on the land if the owner does not establish a different
9 principal residence for which the owner receives an exemption under
10 Section 11.13 during that period and intends to return and occupy
11 the structure as the owner's principal residence. To continue to
12 receive the exemption, the owner must begin active construction of
13 the replacement qualified residential structure or other physical
14 preparation of the site on which the structure is to be located not
15 later than the first anniversary of the date the owner ceases to
16 occupy the former qualified residential structure as the owner's
17 principal residence. The owner may not receive the exemption for
18 that property under the circumstances described by this subsection
19 for more than two years.

20 (b) For purposes of Subsection (a), the site of a
21 replacement qualified residential structure is under physical
22 preparation if the owner has engaged in architectural or
23 engineering work, soil testing, land clearing activities, or site
24 improvement work necessary for the construction of the structure or
25 has conducted an environmental or land use study relating to the
26 construction of the structure.

27 (c) If an owner receives an exemption for property under

1 Section 11.13 under the circumstances described by Subsection (a)
2 and sells the property before the owner completes construction of a
3 replacement qualified residential structure on the property, an
4 additional tax is imposed on the property equal to the difference
5 between the taxes imposed on the property for each of the years in
6 which the owner received the exemption and the tax that would have
7 been imposed had the owner not received the exemption in each of
8 those years, plus interest at an annual rate of seven percent
9 calculated from the dates on which the differences would have
10 become due.

11 (d) A tax lien attaches to property on the date a sale under
12 the circumstances described by Subsection (c) occurs to secure
13 payment of the additional tax and interest imposed by that
14 subsection and any penalties incurred. The lien exists in favor of
15 all taxing units for which the additional tax is imposed.

16 (e) A determination that a sale of property under the
17 circumstances described by Subsection (c) has occurred is made by
18 the chief appraiser. The chief appraiser shall deliver a notice of
19 the determination to the owner of the property as soon as possible
20 after making the determination and shall include in the notice an
21 explanation of the owner's right to protest the determination. If
22 the owner does not file a timely protest or if the final
23 determination of the protest is that the additional taxes are due,
24 the assessor for each taxing unit shall prepare and deliver a bill
25 for the additional taxes plus interest as soon as practicable. The
26 taxes and interest are due and become delinquent and incur
27 penalties and interest as provided by law for ad valorem taxes

1 imposed by the taxing unit if not paid before the next February 1
2 that is at least 20 days after the date the bill is delivered to the
3 owner of the property.

4 (f) The sanctions provided by Subsection (c) do not apply if
5 the sale is:

6 (1) for right-of-way; or

7 (2) to this state or a political subdivision of this
8 state to be used for a public purpose.

9 (g) The comptroller shall adopt rules and forms to implement
10 this section.

11 SECTION 3. Subchapter B, Chapter 11, Tax Code, is amended by
12 adding Section 11.231 to read as follows:

13 Sec. 11.231. NONPROFIT COMMUNITY BUSINESS ORGANIZATION
14 PROVIDING ECONOMIC DEVELOPMENT SERVICES TO LOCAL COMMUNITY. (a)
15 In this section, "nonprofit community business organization" means
16 an organization that meets the following requirements:

17 (1) the organization has been in existence for at
18 least the preceding five years;

19 (2) the organization:

20 (A) is a nonprofit corporation organized under
21 the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq.,
22 Vernon's Texas Civil Statutes) or a nonprofit corporation formed
23 under the Texas Nonprofit Corporation Law, as described by Section
24 1.008, Business Organizations Code;

25 (B) is a nonprofit organization described by
26 Section 501(c)(6), Internal Revenue Code of 1986; and

27 (C) is not a statewide organization;

1 (3) for at least the preceding three years, the
2 organization has maintained a dues-paying membership of at least 50
3 members; and

4 (4) the organization:

5 (A) has a board of directors elected by the
6 members;

7 (B) does not compensate members of the board of
8 directors for service on the board;

9 (C) with respect to its activities in this state,
10 is engaged primarily in performing functions listed in Subsection
11 (d);

12 (D) is primarily supported by membership dues and
13 other income from activities substantially related to its primary
14 functions; and

15 (E) is not, has not formed, and does not
16 financially support a political committee as defined by Section
17 251.001, Election Code.

18 (b) An association that qualifies as a nonprofit community
19 business organization as provided by this section is entitled to an
20 exemption from taxation of:

21 (1) the buildings and tangible personal property that:

22 (A) are owned by the nonprofit community business
23 organization; and

24 (B) except as permitted by Subsection (c), are
25 used exclusively by qualified nonprofit community business
26 organizations to perform their primary functions; and

27 (2) the real property owned by the nonprofit community

1 business organization consisting of:

2 (A) an incomplete improvement that:

3 (i) is under active construction or other
4 physical preparation; and

5 (ii) is designed and intended to be used
6 exclusively by qualified nonprofit community business
7 organizations; and

8 (B) the land on which the incomplete improvement
9 is located that will be reasonably necessary for the use of the
10 improvement by qualified nonprofit community business
11 organizations.

12 (c) Use of exempt property by persons who are not nonprofit
13 community business organizations qualified as provided by this
14 section does not result in the loss of an exemption authorized by
15 this section if the use is incidental to use by qualified nonprofit
16 community business organizations and limited to activities that
17 benefit the beneficiaries of the nonprofit community business
18 organizations that own or use the property.

19 (d) To qualify for an exemption under this section, a
20 nonprofit community business organization must be engaged
21 primarily in performing one or more of the following functions in
22 the local community:

23 (1) promoting the common economic interests of
24 commercial enterprises;

25 (2) improving the business conditions of one or more
26 types of business; or

27 (3) otherwise providing services to aid in economic

1 development.

2 (e) In this section, "building" includes the land that is
3 reasonably necessary for use of, access to, and ornamentation of
4 the building.

5 (f) A property may not be exempted under Subsection (b)(2)
6 for more than three years.

7 (g) For purposes of Subsection (b)(2), an incomplete
8 improvement is under physical preparation if the nonprofit
9 community business organization has:

10 (1) engaged in architectural or engineering work, soil
11 testing, land clearing activities, or site improvement work
12 necessary for the construction of the improvement; or

13 (2) conducted an environmental or land use study
14 relating to the construction of the improvement.

15 SECTION 4. Section 11.26, Tax Code, is amended by adding
16 Subsections (n) and (o) to read as follows:

17 (n) Notwithstanding Subsection (c), the limitation on tax
18 increases required by this section does not expire if the owner of
19 the structure qualifies for an exemption under Section 11.13 under
20 the circumstances described by Section 11.135(a).

21 (o) Notwithstanding Subsections (a), (a-3), and (b), an
22 improvement to property that would otherwise constitute an
23 improvement under Subsection (b) is not treated as an improvement
24 under that subsection if the improvement is a replacement structure
25 for a structure that was rendered uninhabitable or unusable by a
26 casualty or by wind or water damage. For purposes of appraising the
27 property in the tax year in which the structure would have

1 constituted an improvement under Subsection (b), the replacement
2 structure is considered to be an improvement under that subsection
3 only if:

4 (1) the square footage of the replacement structure
5 exceeds that of the replaced structure as that structure existed
6 before the casualty or damage occurred; or

7 (2) the exterior of the replacement structure is of
8 higher quality construction and composition than that of the
9 replaced structure.

10 SECTION 5. Section 11.261, Tax Code, is amended by adding
11 Subsections (l) and (m) to read as follows:

12 (l) Notwithstanding Subsection (d), a limitation on county,
13 municipal, or junior college district tax increases provided by
14 this section does not expire if the owner of the structure qualifies
15 for an exemption under Section 11.13 under the circumstances
16 described by Section 11.135(a).

17 (m) Notwithstanding Subsections (b) and (c), an improvement
18 to property that would otherwise constitute an improvement under
19 Subsection (c) is not treated as an improvement under that
20 subsection if the improvement is a replacement structure for a
21 structure that was rendered uninhabitable or unusable by a casualty
22 or by wind or water damage. For purposes of appraising the property
23 in the tax year in which the structure would have constituted an
24 improvement under Subsection (c), the replacement structure is
25 considered to be an improvement under that subsection only if:

26 (1) the square footage of the replacement structure
27 exceeds that of the replaced structure as that structure existed

1 before the casualty or damage occurred; or

2 (2) the exterior of the replacement structure is of
3 higher quality construction and composition than that of the
4 replaced structure.

5 SECTION 6. Section 11.42(d), Tax Code, is amended to read as
6 follows:

7 (d) A person who acquires property after January 1 of a tax
8 year may receive an exemption authorized by Section 11.17, 11.18,
9 11.19, 11.20, 11.21, 11.23, 11.231, or 11.30 for the applicable
10 portion of that tax year immediately on qualification for the
11 exemption.

12 SECTION 7. Section 11.43(c), Tax Code, is amended to read as
13 follows:

14 (c) An exemption provided by Section 11.13, 11.17, 11.18,
15 11.182, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(h), (j), or
16 (j-1), 11.231, 11.29, 11.30, or 11.31, once allowed, need not be
17 claimed in subsequent years, and except as otherwise provided by
18 Subsection (e), the exemption applies to the property until it
19 changes ownership or the person's qualification for the exemption
20 changes. However, the chief appraiser may require a person allowed
21 one of the exemptions in a prior year to file a new application to
22 confirm the person's current qualification for the exemption by
23 delivering a written notice that a new application is required,
24 accompanied by an appropriate application form, to the person
25 previously allowed the exemption.

26 SECTION 8. Section 23.23(f), Tax Code, is amended to read as
27 follows:

1 (f) Notwithstanding Subsections (a) and (e) and except as
2 provided by Subdivision (2), an improvement to property that would
3 otherwise constitute a new improvement is not treated as a new
4 improvement if the improvement is a replacement structure for a
5 structure that was rendered uninhabitable or unusable by a casualty
6 or by wind [~~mold~~] or water damage. For purposes of appraising the
7 property under Subsection (a) in the tax year in which the structure
8 would have constituted a new improvement:

9 (1) the appraised value the property would have had in
10 the preceding tax [~~last~~] year if the casualty or damage had not
11 occurred [~~in which the property was appraised for taxation before~~
12 ~~the casualty or damage occurred~~] is considered to be the appraised
13 value of the property for that year, regardless of whether that
14 appraised value exceeds the actual appraised value of the property
15 for that year as limited by Subsection (a) [~~last year in which the~~
16 ~~property was appraised for taxation for purposes of Subsection~~
17 ~~(a)(2)(A)]~~; and

18 (2) the replacement structure is considered to be a
19 new improvement only if:

20 (A) the square footage of the replacement
21 structure exceeds that of [~~to the extent it is a significant~~
22 ~~improvement over~~] the replaced structure as that structure existed
23 before the casualty or damage occurred; or

24 (B) the exterior of the replacement structure is
25 of higher quality construction and composition than that of the
26 replaced structure.

27 SECTION 9. This Act applies only to ad valorem taxes imposed

H.B. No. 770

1 for a tax year beginning on or after the effective date of this Act.

2 SECTION 10. This Act takes effect January 1, 2010.

President of the Senate

Speaker of the House

I certify that H.B. No. 770 was passed by the House on May 7, 2009, by the following vote: Yeas 141, Nays 1, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 770 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 770 on May 31, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 770

I certify that H.B. No. 770 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 770 on May 31, 2009, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor